

Attorney Docket No. 9052-268

In re: Morgan et al.

Application No.: 10/542,115

Filing Date: July 12, 2005

REMARKS

Claims 1, 3–6, 8 and 10–21 are currently pending in this application. Applicants appreciate the thorough examination of the present application as evidenced by the Action mailed July 2, 2008. In response to the Action, Applicants respectfully request entry of the claim amendments presented herein and further consideration of the present application in view of these amendments and the remarks provided below.

Support for Claim Amendments

The amendments presented herein have been made to recite particular aspects of the invention so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). These amendments do not represent an acquiescence or agreement with any of the outstanding rejections.

Claim 1 is amended herein to more particularly point out what Applicants regard as the invention and Claim 3 is amended herein to provide proper claim dependency. Support for these amendments can be found in the specification as originally filed. The points raised by the Examiner are addressed hereinbelow in the order in which they are raised in the Action.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

The Examiner rejects Claim 1 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

In response, Applicants delete the recitation, “wherein the film is in a form other than that of an extruded tubular casing.” In view of the foregoing, Applicants believe that Claim 1 as amended herein complies with the written description requirement as described under the statute, and as such respectfully request that the instant rejection be withdrawn.

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Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claims 1 and 3 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Particularly, the Examiner points out that there is no lower limit to the fat content of the film, yet the claims recite a ratio by weight of collagen to fat in the film, and the Examiner requests clarification regarding the fat content that is or is not present in the film.

Applicants amend Claim 1 herein to positively recite that the film of the invention has a fat content. In view of the foregoing, Applicants believe that the instant claims as amended herein satisfy the requirements of the statute, and as such, Applicants respectfully request that the instant rejection be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 3–6, 8, and 10–21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Application Publication No. 2005/0031741 A1 (hereinafter, “Morgan et al.”) in view of U.S. Patent No. 6,482,240 (hereinafter, “Eckmayer et al.”). The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the disclosures of Morgan et al. by extruding the collagen gel of Morgan et al. to form a film as suggested by the disclosures of Eckmayer et al. Applicants respectfully disagree.

As discussed in the previous response, Applicants respectfully reiterate that the disclosures of Morgan et al. are related to a collagen casing. As would be appreciated by one of skill in the art, the terms “casing” and “film” are quite different. The present application and Morgan et al. do not use these terms interchangeably. Applicants submit there is no suggestion that the collagen casing discussed in Morgan et al. is suitable for forming a film as instantly claimed.

Nevertheless, Applicants submit that the disclosures of Morgan et al. discuss collagen casing prepared from porcine collagen derived from generally pig skins (p. 1 [0001]). While the

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disclosures of Morgan et al. discuss changing properties of the casing by varying the ratio of porcine collagen derived from young pigs and older pigs (p. 2 [0019]), the disclosures of Morgan et al. are silent in regard to preparing a collagen film that has a collagen content that consists essentially of sow collagen. The disclosures of Eckmayer et al. discuss collagen membranes formed from porcine rinds (i.e., pig skins), particularly for wrapping food products (abstract). Eckmayer et al. are also silent in regard to preparing a collagen film that has a collagen content that consists essentially of sow collagen as instantly claimed. Thus, Applicants submit that the disclosures of Morgan et al. and Eckmayer et al., alone or in combination, do not describe all the elements of that which is instantly claimed.

By the admission of the Examiner on page 5 line 2 of the Action, the disclosures of Morgan et al. do not explicitly teach the collagen casing can be in another form besides a tube. The Examiner relies on the disclosures of Eckmayer et al. to reasonably modify the disclosures of Morgan et al. in order achieve the present invention. Applicants bring to the attention of the Examiner that the results of comparing collagen films of the present invention with typical porcine collagen films of the prior art at the time the invention was made are shown on page 19 of the specification in Table 1. Please note that the commercial porcine films Geistlich 1 and Geistlich 2 exhibit, among other properties, not only inferior characteristics in wet MD and TD tear tests, but also exhibit poor characteristics in film odor when compared to films of the present invention.

As one of skill in the art would appreciate, "sow" typically refers to adult female pigs. Sow collagen as such is a collagen product derived from adult female pigs, such as may be evidenced in female pigs with milk secretion. On the other hand, porcine collagen is a collagen product derived from pigs, regardless of age and gender, and without the exclusion of male and/or boar collagen, which inherently provide what is known in the art as a "boar taint". Such "boar taint" in any such formed collagen product is less suitable as a food product due to a bad taste and/or odor as is evidenced in Table 1.

Applicants thus submit that the disclosures of Morgan et al. and Eckmayer et al. provide no suggestion of an extruded porcine collagen film that has a collagen content consisting

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essentially of sow collagen, and that such film would have improved characteristics as discussed on page 3 lines 11–16 of the specification and as set forth in the examples shown in Table 1. Thus, further to the submission that the disclosures of Morgan et al. and Eckmayer et al. do not teach all the elements of the instantly claimed invention, Applicants submit that the disclosures of Morgan et al. and Eckmayer et al. provide no teaching, motivation or suggestion to combine the reference teachings to achieve the instantly claimed invention, and submit that the nonobviousness of the instantly claimed invention is further supported by the unexpectedly improved characteristics of the instantly claimed invention over the prior art as discussed hereinabove.

In view of the foregoing, Applicants submit that the instant claims are not obvious over the prior art, and as such Applicants respectfully request that the instant rejection be withdrawn.

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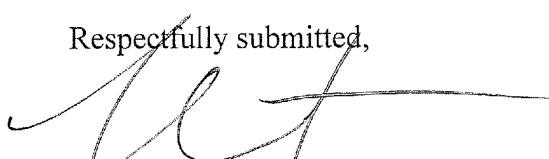
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CONCLUSION

Applicants believe that the points and concerns raised by the Examiner in the Action have been addressed in full, it is respectfully submitted that this application is in condition for allowance, which action is earnestly solicited. Should the Examiner have any remaining concerns, it is respectfully requested that the Examiner contact the undersigned Attorney at (919) 854-1400 to expedite the prosecution of this application to allowance.

A Petition for a two-month extension of time and Fee for Extension of Time are required with this response. Applicants hereby authorize the Commissioner to charge Deposit Account No. 50-0220 in the amount of \$490.00. Applicants believe this amount to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any refund to Deposit Account No. 50-0220.

Respectfully submitted,



M. Sajovec

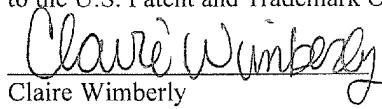
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CERTIFICATION OF ELECTRONIC TRANSMISSION

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Claire Wimberly

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